

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

WILLIAM W. FREY, #1718159 §
VS. § CIVIL ACTION NO. 4:12cv430
DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

Petitioner William W. Frey, an inmate confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He is challenging his Fannin County conviction for aggravated assault with a deadly weapon. The cause of action was referred to United States Magistrate Judge Don D. Bush, who issued a Report and Recommendation concluding that the petition should be denied. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the Petitioner's objections are without merit. The Court notes that the cause of action was remanded, in part, in order to give the Court the first opportunity to consider the Petitioner's actual innocence claim in light of *McQuiggin v. Perkins*, 133 S. Ct. 1924, 1928 (2013). The Court specifically finds that the Petitioner has not satisfied his burden of showing actual innocence. He has not shown that he is entitled to relief. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. It is further

ORDERED that a certificate of appealability is **DENIED**. It is finally
ORDERED that all motions not previously ruled on are hereby **DENIED**.
SIGNED this 14th day of September, 2016.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE